

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROYAL YATES,	)	
	)	
Plaintiff(s),	)	No. C05-1510 BZ
	)	
v.	)	
	)	
GUNN ALLEN FINANCIAL and	)	<b>ORDER GRANTING PLAINTIFF'S</b>
CURT WILLIAMS,	)	<b>MOTION FOR PREJUDGMENT</b>
	)	<b>INTEREST</b>
Defendant(s) .	)	
_____	)	

In this action containing both federal and state claims, the court agrees with plaintiff that inasmuch as an award of punitive damages was returned, implicitly the jury found for plaintiff on his state law churning claim. Because, in a diversity case, a federal court applies the choice of law principles of the state in which it sits for substantive matters of law, and prejudgment interest is a component of substantive damages, California law governs plaintiff's entitlement to prejudgment interest in this diversity action. Northrop Corp. v. Triad Intern. Marketing S.A., 842 F.2d 1154, 1155 (9th Cir. 1988); Bolt v. Merrimack Pharmaceuticals, Inc., 2005 WL 2298423, at \* 6 (E.D. Cal. Sept. 20, 2005).

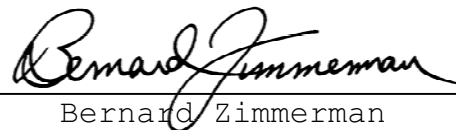
1 California law also determines the appropriate prejudgment  
2 interest rate in this case. Citicorp Real Estate, Inc. v.  
3 Smith, 155 F.3d 1097, 1107 (9th Cir. 1998). Defendants do not  
4 dispute this. Plaintiff's entitlement to, and the amount of,  
5 prejudgment interest are therefore governed by California  
6 Civil Code § 3287.

7 The compensatory damages in this case were such that the  
8 defendants either knew the amount owed or could have readily  
9 computed it from their records. The error made by plaintiff's  
10 damages expert was one of methodology; not computation. The  
11 jury did not have to resolve any disputes as to the amount of  
12 any loss. Defendants' liability was for a sum certain and an  
13 award of prejudgment interest is therefore mandatory under  
14 California Civil Code § 3287(a). See Arceneaux v. Merrill  
15 Lynch, Pierce, Fenner & Smith, Inc., 767 F.2d 1498, 1504 (11th  
16 Cir. 1985) (in a Florida churning case, where state law  
17 precluded an award of prejudgment interest on unliquidated  
18 claims, the jury award was "in the nature of a liquidated  
19 claim" because the jury awarded plaintiff's total claimed loss  
20 and "did not really resolve any dispute as to the amount of  
21 the claimed loss"). Here, the jury awarded plaintiff \$240,382  
22 in compensatory damages, the amount he sought from the jury.  
23 The jury award closely matched the amount prayed for in the  
24 complaint - approximately \$250,000. Once the jury determined  
25 that plaintiff was entitled to damages, it did not need to  
26 resolve any dispute as to the amount but awarded plaintiff's  
27 claimed amount.

28 Furthermore, the appropriate rate of interest is 7%.

1 Continental Airlines, Inc. v. McDonnell Douglas Corp., 216  
2 Cal.App.3d 388, 434 (1989) (setting 7% as the correct  
3 prejudgment interest rate in a case for fraud and breach of  
4 contract because "there is no relevant legislative act  
5 specifying a rate of prejudgment interest for a fraud claim").  
6 See also Northrop Corp., 842 F.2d at 1155 (citing Pacific-  
7 Southern Mortgage Trust Co. v. Insurance Co. of North America,  
8 166 Cal.App.3d 703, 716 (1985)). Although plaintiff agrees  
9 that "well-settled case law would call for a rate of 7%," Rep.  
10 5:1-4, without citing any authority other than his reading of  
11 the California Constitution, he asks the court to refrain from  
12 following this case law. The court declines to do so in a  
13 diversity case and will apply a prejudgment interest rate of  
14 7%. **IT IS THEREFORE ORDERED** that plaintiff's motion is  
15 **GRANTED** and he is awarded prejudgment interest at the rate of  
16 7% from May 8, 2004, the day he stopped trading. The parties  
17 are **ORDERED** to calculate the amount of the prejudgment  
18 interest consistent with this opinion and file a stipulation  
19 by June 26, 2006 as to the amount.

20 Dated: June 21, 2006

21 

22 Bernard Zimmerman  
United States Magistrate Judge

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